

REMARKS

Claims 20-28, 30-34, 36, and 41-46 are pending. Claims 29, 35, and 37 are cancelled herein.

The Examiner has rejected claims 35 and 37 under 35 U.S.C. § 112, ¶ 1, and claims 20-39, and 41-45 under 35 U.S.C. § 103(a) over U.S. patent number 6,202,060 (hereinafter: *Tran*) in combination with U.S. patent number 5,835,861 (herinafter: *Whiteside*) in view of U.S. patent number 5,903,548 (hereinafter: *Delameter*). Claim 46 stands rejected under 35 U.S.C. § 103(a) over *Tran*, *Whiteside*, and *Delameter* in view of U.S. patent number 6,021,432 (hereinafter: *Sizer*).

Statement of the Substance of the Interview

On May 26, 2009, the Applicant's undersigned representative conducted a telephonic interview with Examiner Sheleheda. The Applicant's undersigned representative thanks the Examiner for his time and courtesy.

The parties discussed the pending rejections of claims 20 and 29 under 35 U.S.C. § 103(a) over *Tran* and *Whiteside* in view of *Delameter*.

Amendments to the Claims

Claims 29, 35, and 37 are cancelled herein. The Applicant reserves the right to pursue cancelled subject matter in a continuation application.

Independent claim 20 is amended herein. Dependent claims 25-28, 30, 34, 36, and 41 are amended herein to comport with amended claim 20. Dependent claims 21-28, 30-34, 36,

38-39, and 41-46 depend from claim 20. No new matter is added through these amendments.

Rejections Under 35 U.S.C. § 112, ¶ 1

The Examiner contends that “claims 35 and 37 … fail to comply with the written description requirement.” *Office Action*, p. 3. In order to expedite prosecution, and without conceding as to the merits of the rejection, claims 35 and 37 are cancelled herein. The rejection of claims 35 and 37 under 35 U.S.C. § 112, ¶ 1 is therefore moot.

35 U.S.C. § 103(a) Rejections per Tran, Whiteside, and Delameter

Claims 20-39, and 41-45 were rejected under 35 U.S.C. § 103(a) over *Tran, Whiteside, and Delameter*. Claim 46 was rejected under 35 U.S.C. § 103(a) over *Tran, Whiteside, and Delameter* in view of *Sizer*.

The Applicant respectfully requests clarification of the following rejections, particularly:

- i)** with respect to claim 22, the Examiner’s rejection failed to identify where *Tran* discloses “streamed” content (*Office Action*, p. 7).
- ii)** with respect to claim 23, the Examiner’s rejection failed to identify where *Tran* discloses “pulsed” content (*Office Action*, p. 7).
- iii)** with respect to claim 29, the Examiner’s rejection failed to address the “handheld media device” limitation (*Office Action*, p. 8).
- iv)** with respect to claim 33, the Examiner’s rejection failed to specify from which reference the purportedly relevant citation was obtained (*Office Action*, p. 9).

v) with respect to claim 34, the Examiner's rejection failed to specify from which reference the purportedly relevant citation was obtained (*Office Action*, p. 9).

vi) with respect to claim 35, the Examiner's rejection failed to specify from which reference the purportedly relevant citation was obtained (*Office Action*, p. 9).

vii) with respect to claim 36, the Examiner's rejection failed to specify from which reference the purportedly relevant citation was obtained (*Office Action*, p. 10).

viii) with respect to claim 37, the Examiner's rejection failed to specify from which reference the purportedly relevant citation was obtained (*Office Action*, p. 10).

ix) with respect to claim 38, the Examiner's rejection failed to specify from which reference the purportedly relevant citation was obtained (*Office Action* p. 10).

x) with respect to claim 39 the Examiner's rejection failed to specify from which reference the purportedly relevant citation was obtained (*Office Action*, p. 10).

xi) with respect to claim 41, the Examiner's rejection failed to provide a reference in support of the allegation "it was notoriously well known in the art..." (*Office Action*, p. 11).

Notwithstanding these requests for clarification, and in order to expedite prosecution, the Applicant amends claim 20 herein to substantially incorporate subject matter that had been previously presented in (now cancelled) claim 29. As amended, claim 20 recites:

A portable wireless media access device comprising:

- a transceiver configured to transact a wireless communications session over a wireless network;
- a proximity sensor coupled to the transceiver and configured to scan for, detect, and notify a user of another portable wireless media access device capable of transacting a wireless communications session with the portable wireless media access device;
- memory configured to store audio/video content; and
- a user interface configured to receive instructions related to audio/video content stored in the memory.

Claim 20 recites, *inter alia*, “a portable wireless media device . . . configured to scan for. . . another portable wireless media access device capable of transacting a wireless communications session with the portable wireless media access device.”

Support for this limitation may be found on page 4, lines 23-27 of the *Specification*: “the apparatus is . . . scanning for other similarly equipped systems within the immediate area,” and “the apparatus is able to automatically detect other compatible devices and can form a mini local area network.” This limitation is further supported on page 9, lines 3-6: “The proximity sensor 70 and transceiver 69 cooperatively enable the apparatus 11 to recognize and initiate a communications session with other compatible devices, including similarly equipped systems.”

Neither Tran, nor Whiteside, nor Delameter, alone or in combination, teaches “another portable wireless media access device capable of transacting a wireless communications session with the portable wireless media access device,” as recited in amended claim 20. As such, the Applicant submits that the 35 U.S.C. § 103(a) rejection of claim 20 is now overcome.

In that the 35 U.S.C. § 103(a) rejection of claim 20 is now overcome, the Applicant submits that the Examiner’s 35 U.S.C. § 103(a) rejections of claims depending from claim 20 are also overcome.

CONCLUSION

The Applicant has cancelled claims 35 and 37, rendering moot the 35 U.S.C. § 112, ¶ 1 rejection of these claims.

The Applicant has evidenced the lack of each and every claim element in the Examiner's proposed combination of *Tran*, *Whiteside*, and *Delameter*, namely "a portable wireless media device . . . configured to scan for . . . another portable wireless media access device." As such, all pending rejections under 35 U.S.C. §103(a) have been overcome.

The Applicant has, therefore, overcome all rejections of record and the Examiner is respectfully requested to allow the presently pending claims. If the Examiner has any questions concerning this amendment or the application in general, the Examiner is invited to contact undersigned representative concerning the same.

Respectfully submitted,
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